FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Jose Velasquez
DOCKET NO.: 07-04084.001-C-2
PARCEL NO.: 03-26-203-023

The parties of record before the Property Tax Appeal Board are Jose Velasquez, the appellant, by attorney Melissa K. Whitley, of Marino & Assoc., PC, Chicago, Illinois; and the DuPage County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds ***no change*** in the assessment of the property as established by the **DuPage** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	$52,500
IMPR.:	$209,990
TOTAL:	$262,490

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a 22,466 square foot site improved with a three-story masonry constructed, garden type walk-up apartment building, built on a slab foundation, that contains approximately 8,446 square feet of gross building area and 6,700 square feet of net rentable area. The subject has 9 apartment units composed of 7 one-bedroom units and 2 two-bedroom units. The subject building also has laundry and storage rooms. Additional on-site improvements include a concrete paved open parking lot for 19 vehicles. The subject has a land to building ratio 2.66:1. The subject property is located at 1058 South York Road, Bensenville, Addison Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board by counsel contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted a narrative appraisal prepared by real estate appraisers Arthur Murphy and Genadi Dvorkin of Urban Real Estate Research, Inc., which was marked as Appellant's Exhibit No. 1. The appraisers estimated the subject property had a market value of $420,000 as of January 1, 2007.

At the hearing the appellant called as its witness Arthur J. Murphy, a state certified general appraiser who also has the Member of the Appraisal Institute (MAI) designation from the Appraisal Institute. The witness was accepted as an expert and allowed to give opinion testimony.

At page 17 of Appellant's Exhibit No. 1 the report stated the subject property was purchased in September 2004 for a price of $890,000. The report stated this price included both the real estate value and an investment value. The report also indicated the current improvement is highest and best use of the subject property as improved. (Appellant's Exhibit No. 1, page 55). In estimating the market value of the subject property the appraisers developed the three traditional approaches to value. Although not testified to in detail at the hearing, the Property Tax Appeal Board will summarize the approaches to value developed by the appraisers.

Under the cost approach to value the appraisers first estimated the land value using three land sales located in Elmhurst and Bensenville. The land comparables ranged in size from approximately 10,113 to 20,000 square feet and sold from May 2005 to January 2008 for prices ranging from $168,000 to $333,000 or from $16.65 to $17.60 per square foot of land area. The appraisers estimated the subject site had a land value of $16.00 per square foot of land area or $360,000, rounded.

The appraisers next estimated the replacement cost new of the improvements using the *Marshall Valuation Computerized Cost Service* to be $865,259, which included indirect costs and an entrepreneurial incentive. Physical depreciation was estimated to be 66% using an effective age of 33 years and a 50 year economic life. The appraisers made no deduction for functional obsolescence due to the fact that replacement cost was used. The appraisers were of the opinion the subject suffered from economic obsolescence in the amount of $256,615 or 29.65% of the replacement cost new based on their conclusion the subject's potential income is insufficient to provide an acceptable rate of return for the land and improvements. Total depreciation was estimated to be $827,586, which was deducted from the cost new to arrive at a depreciated building value of $37,673. To this the appraisers added $15,575 for the depreciated value of the site improvements and the estimated land value of $360,000 to arrive at an estimated value under the cost approach of $410,000, rounded.

The second approach to value developed by the appraisers was the income approach to value. The first step was to estimate the subject's potential gross income using four rental comparables located in Bensenville. These comparables had monthly rental rates for one-bedroom apartments ranging from $610 to $735; the subject's actual rent for one-bedroom apartments was from $725 to $735 per month. These comparables had monthly rental rates for two-bedroom apartments ranging from $670 to $885; the subject's actual rent for two-bedroom apartments was from $800 to $880 per

month. The appraisers estimated the subject property would have a market rent of $730 per month for the one-bedroom apartments and $850 per month for the two-bedroom apartments resulting in a total annual potential gross income of $81,720. The appraisers also added $700 to account for the subject's laundry annual income to arrive at a total gross potential income of $82,420.

From this amount 9% was deducted to account for vacancy to arrive at an effective gross income of $75,065. This deduction was based on the subject's historical weighted vacancy from 2004 through 2006 and Institute of Real Estate Management (IREM) statistics. Using the subject's historical income and expenses, 2007 IREM market data for garden apartments in the Chicago Metropolitan Area and expenses from comparables, the appraisers estimated the subject property would have expenses of $30,128. Deducting expenses resulted in a net operating income of $44,937.

The final step was to estimate the capitalization rate using the band of investment method. The appraisers estimated the subject would have a 65% loan to value ratio. They further estimated the subject would have a 6.10% interest rate on the loan and a 11% return on the equity component resulting in a capitalization rate of 9.5%. To this the appraisers added 1.8% for the tax load to arrive at loaded capitalization rate of 11.3%. Capitalizing the net income resulted in an estimated value under the income approach of $400,000.

The final approach developed by the appraisers was the sales comparison approach to value using three comparable sales. The comparables were located in Northlake, Franklin Park and Bensenville. The comparables were improved with two-story or three-story apartment buildings ranging in size from 6,320 to 20,590 square feet of building area. The buildings were constructed from 1967 to 1975 and had from 10 to 29 units. The sales occurred from January 2004 to October 2007 for prices ranging from $550,000 to $1,950,000 or from $45,000 to $67,241 per unit and from $81.82 to $94.71 per square foot of building area. The appraisers considered comparable sales #1 and #2 to be overall similar to the subject while comparable #3 was considered superior to the subject. Based on these sales the appraisers estimated the subject property had an estimated value under the sales comparison approach of $50,000 per apartment unit or $450,000.

In reconciling the three approaches to value the appraisers indicated within the report that the income approach was given primary emphasis, the sales comparison approach was given secondary consideration and the cost approach was given the least weight. In conclusion the appraisers estimated the subject property had an estimated market value of $420,000 as of January 1, 2007.

At the hearing Murphy discussed the location of the comparable sales and indicated they were located from approximately ½ mile to approximately 4 miles from the subject property. He also

testified the subject is located across the street from a shopping center and near subsidized housing. Using Appellant's Exhibit No. 3, three aerial photographs depicting the subject property and its neighborhood, Murphy testified the subject property has a narrow lot with surplus land in the back. He also identified the location of the shopping center and the subsidized housing, which he was of the opinion had a negative impact on the subject property.

With respect to comparable sale #3, located on York Road in Bensenville, Murphy testified this property is located in a lovelier residential area and does not have the shopping center. He further testified this comparable had balconies on the second floor and more greenery, thus it is in a better location. For these reasons the appraiser thought this comparable was superior to the subject property.

The witness also explained that the owner purchased the subject property due to the size of the site and with idea of constructing an additional building on the unpaved rear section.

Under cross-examination Murphy agreed that he did not personally inspect the subject property. With respect to the sale of the subject property, Murphy stated he did not have a personal conversation with the owner regarding the reason he paid what he did for the property. The witness also indicated that the reference to the Chicago market in the report was the result of a "cut and paste" in the wrong spot.

Murphy was questioned with respect to the statement on page 40 of the appraisal stating in part, "the subject suffers from a low degree of physical depreciation." He stated this means the property was in good shape. However, on page 66 of the appraisal a deduction of 66% was made for physical depreciation, which Murphy agreed was high.

With respect to the capitalization rate applied in the income approach, Murphy was questioned about the statements on page 106 of the appraisal that various published sources had reported capitalization rates averaging from 6.0% to 7.03%, yet the appraiser estimated a capitalization rate of 9.5% for the subject property. He explained the rates were for good investment-type properties; however, he considered the subject not to be a good investment-type property. Murphy did agree that the capitalization rate is a little too high.

With respect to comparable sale #1 located in Northlake, the appraiser stated that this property was not located in DuPage County but in Cook County. This comparable sold in 2007 and was indicated to have a capitalization rate of 8%. The appraiser stated that sale #2, located in Franklin Park, was not in DuPage County. Sale #3, located on York Road in Bensenville, is located in DuPage County. This property sold in 2004 and Murphy indicated a slight upward adjustment would be need for 2007. The

appraiser was of the opinion that market for these types of properties got better from 2004 to 2007.

Murphy also agree that page 11 of the appraisal makes reference to an addendum that accompanies the appraisal report with respect to a description of market value for ad valorem appraisal assignments, but the addendum was not attached to the appraisal or otherwise submitted. The appraisal at pages 13 and 14 also makes reference to the addendum that was not otherwise submitted.

The board of review submitted its "Board of Review Notes on Appeals" wherein its final assessment of the subject property totaling $262,490 was disclosed. The subject's assessment reflects a market value of $789,206 or $87,690 per apartment and $93.44 per square foot of building area, including land, when applying the 2007 three year average median level of assessments for DuPage County of 33.26%.

At the hearing the board of review called as its witness Frank Marack, Jr., Chief Deputy Assessor of Addison Township. In support of the assessment the witness submitted a list of six comparable sales of apartment buildings that were located in Bensenville. The comparables were improved with two and three story buildings of masonry construction that ranged in size from 3,456 to 19,695 square feet of building area. The comparables had from 4 to 18 apartments and were built from 1960 to 1989. These properties had sites that ranged in size from 4,773 to 55,392 square feet of land area resulting in land to building ratios ranging from .86:1 to 3.10:1. The sales occurred from January 2005 to September 2006 for prices ranging from $480,000 to $1,350,000 or from $70,139 to $120,000 per apartment and from $64.10 to $138.89 per square foot of building area, including land. Marack testified that the comparables are located within 1½ miles from the subject and comparable #1, located at 1040 S. York Road, Bensenville, is 245 feet north of the subject property.

Marack testified that the subject's assessment reflects a market value of $787,548 or $87,505, when applying the statutory level of assessment of 33 1/3%, which is within range established by the comparable sales. The deputy assessor was also of the opinion the subject did not have excess land. The witness also agreed the subject property sold in September 2009 for a price of $890,000 or $98,889 per unit, which is greater than the market value as reflected by the assessment.

Under cross-examination Marack agreed that his comparable sale #5, 1003 Argyle Street, was converted from an apartment building to a condominium after the sale. He also testified that his comparable sale #1 had a detached two-car garage and that comparable sale #4 was 17 years newer than the subject building.

Under redirect examination Marack stated he did not know the apartment mix for comparable #1; comparable #2 had 3 one-bedroom units and 3 two-bedroom units; comparable #3 had 2 one-bedroom

units and 4 two-bedroom units; he did not know the apartment mix for comparable #4; comparable #5 had 14 one-bedroom units and 4 two-bedroom units; and comparable #6 and 9 one-bedroom units and 9 two-bedroom units. He also testified that comparable #4, located at 234 George Street, also had a 2,280 square foot detached garage.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal. The Board further finds the evidence in the record supports the assessment of the subject property.

The appellant argued overvaluation as the basis of the appeal. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant did not meet this burden of proof and a reduction in the subject's assessment is not warranted.

The record contains an appraisal of the subject property submitted by the appellant and comparable sales provided by the board of review. Additionally, both parties agreed the subject property sold in sold in September 2009 for a price of $890,000 or $98,889 per unit and $105.38 per square foot of building area, including land. The subject's assessment reflects a market value of $789,206 or $87,690 per apartment and $93.44 per square foot of building area, including land, when applying the 2007 three year average median level of assessments for DuPage County of 33.26%.

After considering the testimony of the witnesses and the evidence presented by the parties, the Board finds the comparable sales submitted by the board of review are the best evidence of market value in the record. The six sales provided by the board of review were improved with apartment buildings located in Bensenville that had varying degrees of similarity to the subject property. The comparables were improved with two and three story buildings of masonry construction that ranged in size from 3,456 to 19,695 square feet of building area. The comparables had from 4 to 18 apartments and were built from 1960 to 1989. These properties had sites that ranged in size from 4,773 to 55,392 square feet of land area resulting in land to building ratios ranging from .86:1 to 3.10:1. The sales occurred from January 2005 to September 2006 for prices ranging from $480,000 to $1,350,000 or from $70,139 to $120,000 per apartment and from $64.10 to $138.89 per square foot of building area, including land. The subject's assessment reflects a market value of $789,206 or $87,690 per apartment, which is within the range established by these comparable sales.

The Board finds the comparable most similar to the subject in number of units and land area was board of review comparable #4, located at 234 George Street, which sold in September 2006 for a price of $921,500 or $115,188 per unit, which is significantly above the unit value of the subject property as reflected by the assessment. The comparable most similar to the subject in location was board of review comparable #1 located at 1040 S. York Road, 245 feet north of the subject, which sold in May 2005 for $480,000 or $120,000 per apartment unit, significantly above the unit value of the subject property as reflected by the assessment. As a final point, the Board finds the subject's September 2004 purchase price of $890,000 or $98,889 per unit is significantly above the market value reflected by the assessment of $789,206 or $87,690 per apartment unit.

In light of these sales and further considering the sale of the subject property, the Board finds the appraised value of $420,000 or approximately $46,667 per apartment unit is not credible.

Based on this record the Property Tax Appeal Board finds the assessment of the subject property is not excessive in relation to the market value of the property as reflected by the assessment. In conclusion, the Board finds the assessment of the subject property as established by the board of review is correct and a reduction in the assessment is not justified.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman

Member

Member

Member

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: April 20, 2012

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board’s decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.